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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2012-560*

13 **JENNIFER J. CARAWAY**
a.k.a. JENNIFER JEAN CARAWAY
14 580 El Reno Drive
Chico, CA 95973

A C C U S A T I O N

15 Registered Nurse License Number 593602

16 Respondent.

17 Complainant alleges:

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 **Registered Nurse License**

22 2. On or about January 17, 2002, the Board issued Registered Nurse License Number
23 593602 to Jennifer J. Caraway ("Respondent"). The license was in full force and effect at all
24 times alleged herein. The license will expire on June 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part,
27 that the Board may discipline any licensee including a licensee holding a temporary or an
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1 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
2 Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall
4 not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
5 licensee or to render a decision imposing discipline on the license. Under Code section 2811(b),
6 the Board may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse or
10 deny an application for a certificate or license for the following:

11 (a) Unprofessional conduct.

12 6. Code section 2762 states, in pertinent part:

13 In addition to other acts constituting unprofessional conduct within the
14 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

15 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
16 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
17 herself, or furnish or administer to another, any controlled substance as defined in
Division 10 (commencing with Section 11000) of the health and Safety Code or any
dangerous drug or dangerous device as defined in Section 4022.

18 (b) Use any controlled substance as defined in Division 10 (commencing with
19 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
20 device as defined in Section 4022, or alcoholic beverages, to an extent or in a
21 manner dangerous or injurious to himself or herself, any other person, or the public
or to the extent that such use impairs his or her ability to conduct with safety to the
public the practice authorized by his or her license.

22 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
23 entries in any hospital, patient, or other record pertaining to the substances described
in subdivision (a) of this section.

24 7. Code section 4022 states:

25 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
26 self-use in humans or animals, and includes the following:

27 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
28 without prescription," "Rx only," or words of similar import.

1 (b) Any device that bears the statement: "Caution: federal law restricts this
2 device to sale by or on the order of a _____," "Rx only," or words of similar import,
the blank to be filled in with the designation of the practitioner licensed to use or
order use of the device.

3 (c) Any other drug or device that by federal or state law can be lawfully
4 dispensed only on prescription or furnished pursuant to Section 4006.

5 8. Health and Safety Code section 11170 states that no person shall prescribe,
6 administer, or furnish a controlled substance for herself.

7 9. Health and Safety Code section 11173 provides, in pertinent part:

8 (a) No person shall obtain or attempt to obtain controlled substances, or
9 procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge or (2) by the
10 concealment of a material fact.

11 **DRUGS**

12 10. **Cocaine** is a Schedule II controlled substance as designated by Health and Safety
13 Code section 11055(b)(6) and a dangerous drug within the meaning of Code section 4022.

14 11. **Dilaudid**, a brand of **Hydromorphone**, is a Schedule II controlled substance as
15 designated by Health and Safety Code section 11055(b)(1)(J) and a dangerous drug within the
16 meaning of Code section 4022.

17 12. **Oxycodone** is a Schedule II controlled substance as designated by Health and Safety
18 Code section 11055(b)(1)(M) and a dangerous drug within the meaning of Code section 4022.

19 13. **Trazodone**, an anti-depressant, is a dangerous drug within the meaning of Code
20 section 4022.

21 14. **Valium**, a brand of **Diazepam**, is a benzodiazepine derivative, and a Schedule IV
22 controlled substance as designated by Health and Safety Code section 11057(d)(9).

23 15. **Vicodin** and **Lortab** are trade names for **Hydrocodone** and are Schedule II
24 controlled substances as designated in Health and Safety Code section 11055(b)(1)(I) and are
25 dangerous drugs within the meaning of Code section 4022.

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1 **COST RECOVERY**

2 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations
4 of the licensing act to pay a sum not to exceed the reasonable of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(False, Grossly Incorrect, Grossly Inconsistent, or Unintelligible**
8 **Entries in Hospital, Patient or Other Records)**

9 17. Respondent's license is subject to disciplinary action under Code section 2761,
10 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
11 subdivision (e), in that on or about December 2, 2008, while employed as a registered nurse with
12 Valley Healthcare Systems ("VHS") and on assignment and on duty at Kaiser Permanente -
13 South, Sacramento, California, Respondent committed the following acts:

14 **Patient**

15 a. On December 2, 2008, at approximately 1612 hours, Respondent withdrew
16 two Vicodin 5-500 mg tablets from the Kaiser Pyxis System for this patient and falsely recorded
17 at 1616 hours on the Patient's medication administration record ("MAR") that she had
18 administered the two Vicodin tablets to the Patient. However, the Patient told Kaiser
19 administration that she had refused the Vicodin tablets because she was allergic to them.
20 Patient's allergy to Vicodin was stated several times in the Pyxis system and other computerized
21 files for Kaiser. Respondent did not return or waste or otherwise account for the two Vicodin
22 tablets.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Obtained or Attempted to Obtain, Procure or Attempted**
25 **to Procure, Administration or Prescription of**
26 **Controlled Substances or Dangerous Drugs or Devices)**

27 18. Respondent's license is subject to disciplinary action under Code section 2761,
28 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
subdivision (a), as follows:

1 a. On or about December 2, 2008, Respondent obtained Vicodin, a controlled
2 substance, while employed as a registered nurse by VHS and assigned to and on duty at Kaiser –
3 South, Sacramento, in violation of Health and Safety Code section 11173, subdivision (a).

4 b. On or before December 5, 2008, Respondent self-administered Cocaine, a
5 controlled substance, without a valid prescription, in violation of Health and Safety Code section
6 11170.

7 c. On or before October 11, 2010, Respondent self-administered Hydromorphone
8 (Dilaudid), a controlled substance, without a valid prescription, in violation of Health and Safety
9 Code section 11170.

10 d. On or about January 17, 2011, Respondent attempted to obtain 270 tablets of
11 Oxycodone, a controlled substance, and a second medication, currently unknown, by presenting
12 a forged prescription to the CVS Pharmacy located at 801 East Avenue, Chico, California, in
13 violation of Health and Safety Code section 11170 and 11173, subdivision (a).

14 e. On or about February 7, 2011, Respondent attempted to obtain 240 tablets of
15 Valium and 180 tablets of Oxycodone, and 30 tablets of Trazodone by presenting a forged
16 prescription to the CVS Pharmacy located at 801 East Avenue, Chico, California, in violation of
17 Health and Safety Code sections 11170 and 11173, subdivision (a).

18 f. On or about February 7, 2011, Respondent attempted to obtain 240 tablets of
19 Valium, 180 tablets of Oxycodone, and 30 tablets of Trazodone by telephoning the CVS
20 Pharmacy located at 801 East Avenue, Chico, California, and impersonating a local physician
21 purportedly authorizing filling a prescription for those controlled substances and drugs, in
22 violation of Health and Safety Code sections 11170 and 11173, subdivision (a).

23 g. On and prior to February 15, 2011, Respondent obtained and possessed
24 dangerous devices, to wit, hypodermic syringes and needles, without a valid prescription.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Used Controlled Substances to Extent Injurious to Self or Others)**

27 19. Respondent's license is subject to disciplinary action under Code section 2761,
28 subdivision (a), on the grounds of unprofessional conduct as defined by Code section 2762,

1 subdivision (b), Respondent used controlled substances to an extent or in a manner dangerous or
2 injurious to herself, any other person, or the public or to the extent that such use impaired her
3 ability to conduct with safety to the public the practice of registered nursing, as set forth in
4 paragraph 18, subparagraphs b and c, above, incorporated herein by this reference.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**


7 20. Respondent's license is subject to disciplinary action under Code section 2761,
8 subdivision (a), on the grounds of unprofessional conduct in that on or about February 15, 2011,
9 Respondent had Biggs Gridley Memorial Hospital Emergency Room work journals at her
10 residence containing personal and confidential information about patients, thus violating the
11 patients' right to privacy.

12 **PRAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
14 alleged, and that following the hearing, the Board of Registered Nursing issues a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 593602, issued to
16 Jennifer J. Caraway;
- 17 2. Ordering Jennifer J. Caraway to pay the Board of Registered Nursing the reasonable
18 costs of the investigation and enforcement of this case pursuant to Business and Professions
19 Code section 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.

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22 DATED: March 20, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant